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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/686,754	10/10/2000	Jeffrey L. Huckins	INTL-0481-US (P10029)	4789
21906	7590	10/28/2005		
TROP PRUNER & HU, PC 8554 KATY FREEWAY SUITE 100 HOUSTON, TX 77024			EXAMINER DONAGHUE, LARRY D	
			ART UNIT	PAPER NUMBER
			2154	

DATE MAILED: 10/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/686,754

Applicant(s)

HUCKINS, JEFFREY L.

Examiner

Larry D. Donaghue

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 August 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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1. Claims 1-30 are presented for examination.
2. The rejection is maintained and set forth below.
3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1,6-7,11, 15-16, 20, 22-24, 26 and 28-30 are rejected under 35 U.S.C. 102(e) as being anticipated by Reisacher (5,978,845).
5. Cited by applicant on paper received 02/17/2005.
6. As to claims 1,11,20,26 and 29, Reisacher taught receiving on a client a message (col. 5, lines 67, fig6, REQ(var1,var2) from a server (fig. 2, element 24) addressed to said client (fig. 3, col. 5, line 29) ; and scheduling a data upload session based on said message (col. 6, line 5-32).
7. As to claim 6 and 15, Reisacher taught locating an identifier within said message that specifies an agent on said client to handle said message, and forwarding said message to said agent (col. 5, line 63 – col. 6, line 15).
8. As to claim 7, 16, and 24, Reisacher taught enabling said agent to upload sate data to said server over a back channel during a data upload session.
9. As to claims 22, 28, and 30 Reisacher taught storage stores instructions that enable said processor-based device to locate an identifier within said message that specifies an agent on said device to handle said message and forward said message to said agent (col. 5, line 17 – col. 6, line 39).
10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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11. Claims 4-5, 8-10, 14, 17-19, 25 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reisacher as applied to claims 1, 6-7, 11, 15-16, 20, 22-24, 26 and 28-30 above, and further in view of Hein et al. (SNMP, Simple Network Management Protocol Version 2) .

12. As to claims 4, 5, 9, and 14 and 18 receiving a message including an identifier indicating a change to a partition on said storage device and extracting from said message an identifier which specifies the information to upload to said server and uploading the specified information to said server which specifies a task to perform on a storage device (see Reisacher , col. 6, lines 29-32, col. 5, line 66 – col. 4, line 15, in combination with Page 339, 2nd col. line 32 – page 342 1st col. line 19 of Hein et al.).

13. It would have been obvious to combine these references as both are directed to the use of SNMP.

14. As to claims 8, 17, 25, and 27, Hein et al. taught extracting a specified time from said message and uploading said data at the specified time (pages 339-340).

15. As to claim 6 and 15, Reisacher taught said message includes a server identifier, and uploading said data to the identified server (fig. 6, col. lines 22-28).

16. Claims 2-3, 12-13 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reisacher as applied to claims 1, 6-7, 11, 15-16, 20, 22-24, 26 and 28-30 above, and further in view of Lakey et al. (6,078,954).

17. Reisacher did not expressly teach the limitations of claims 2-3, 12-13 and 21.

18. Lakey et al. discloses that most network support three types of addressing unicasting (claims 3 and 13) and Multicasting (claim 21) the combination of multicasting and unicasting meet the requirement of claims 2, and 12. (col. 1) It would have been obvious to combine these references as Lakey et al. taught the application of the system to network maintenance.

19. Applicant's arguments filed 08/08/2005 have been fully considered but they are not persuasive.

20. Applicant argues in substance that there is nothing in the cited material which in any way suggests scheduling any kind of data transfer, scheduling a data upload session, or doing either of those based on a message received on a client.

21. Examiner notes that Reisacher expressly taught the receiving device is a client, (col. 5, lines 19-30).

22. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and

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the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Larry D. Donaghue whose telephone number is 571-272-3962. The examiner can normally be reached on M-F 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee can be reached on 571-272-3964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


LARRY D. DONAGHUE
PRIMARY EXAMINER